

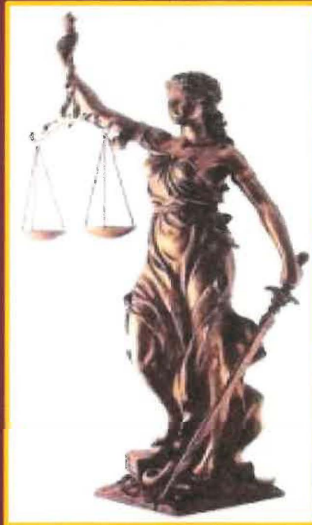
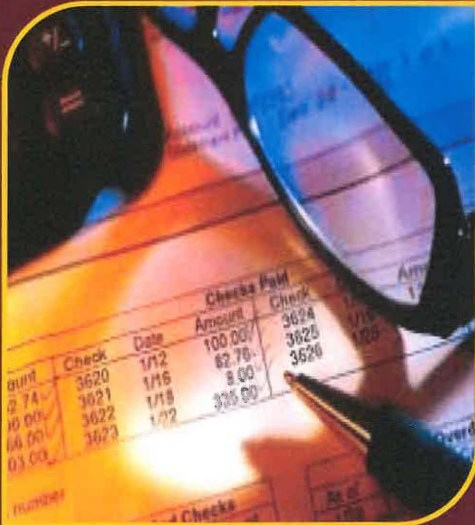
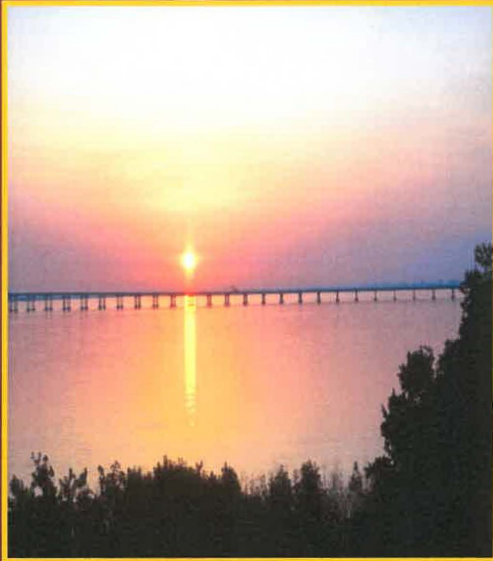


DIVISION OF INSPECTOR GENERAL

KEN BURKE, CPA

**CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA**

INVESTIGATION OF FORECLOSURE SALE TRANSACTION



**An Accredited Office of
Inspectors General**

**Hector Collazo Jr.
Inspector General/Chief Audit Executive**

**Investigation Team
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**DECEMBER 21, 2017
REPORT NO. 2017-34**



Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER
PINELLAS COUNTY, FLORIDA

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Recorder of Deeds
Clerk and Accountant of the Board of County Commissioners
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December 21, 2017

Claretha Harris, Chief Deputy Director, Finance Division
Jeff Gates, Executive Director, Court and Operational Services Division

At the request of Ken Burke, Clerk of the Circuit Court and Comptroller, the Division of Inspector General's Public Integrity Unit has completed an investigation of the following allegation:

- A mortgage foreclosure sale transaction was double posted. **Substantiated.**

To determine whether the allegation was substantiated, we reviewed policies, procedures, and appropriate records. We also interviewed staff and other parties, as needed. Our investigation was performed according to the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation.

The recommendations presented in this report may not be all-inclusive of areas where improvement may be needed. We believe that implementation of the recommendations will address the identified issues and strengthen the current internal controls.

We appreciate the full cooperation and assistance of the Finance Division and the Court and Operational Services Division Management during our investigation. If you have any questions, please do not hesitate to contact me at 464-8371.

Respectfully Submitted,

Hector Collazo Jr.
Inspector General/Chief Audit Executive

cc: Ken Burke, CPA, Clerk of the Circuit Court and Comptroller



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INTRODUCTION

Synopsis

The Division of Inspector General (IG) investigated the following allegation:

- A mortgage foreclosure sale transaction was double posted.

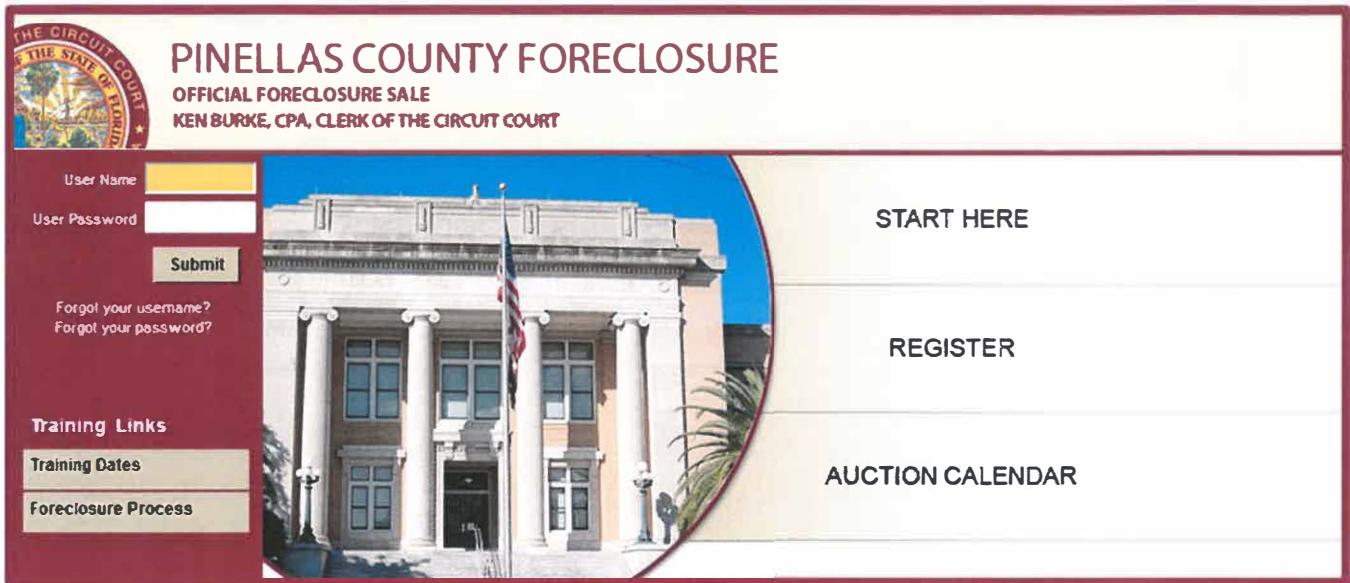
The IG investigation of the allegation concluded that there were three instances, one of which was identified in the original allegation, where a Fiscal Records Specialist (FRS) in the Civil Court Records Department (Civil Court Records) erroneously credited three separate mortgage foreclosure auction bidder accounts. These transactions inflated the associated bidders' balances available for auction bidding. The Clerk's Accounting Department (Clerk's Accounting) was able to recover funds from two of the three bidder accounts; however, the third bidder withdrew funds before they could be recovered. Clerk's Accounting has engaged legal counsel to assist in recovering funds from the third bidder. The three erroneous deposits may not be all inclusive, as Clerk's Accounting is still in the process of balancing the remaining mortgage foreclosure auction bidder accounts.

Since the three mistaken deposit transactions resulted in inflated bidder account balances, we have determined that the allegation is substantiated. Our assessment is the three transactions were the result of a clerical error. The responsible FRS is no longer a County employee.

Summary of Investigative Findings

NO.	INVESTIGATIVE FINDINGS CAPTIONS RECOMMENDATIONS	MANAGEMENT RESPONSES	IMPLEMENTATION STATUS
1	<i>Clerk's Accounting Has Not Implemented Policies And Procedures To Reconcile The Mortgage Foreclosure Accounts.</i>		
A	We recommend Clerk's Accounting Management finish the reconciliation of Real Auction bidder accounts to Odyssey. Any discrepancies should be researched and corrected. If the determination is made that a Real Auction bidder account transaction was erroneous, Civil Court Records should adjust the Real Auction bidder account balance accordingly. If a payment has been made to the bidder based on an erroneous Real Auction transaction, Clerk's Accounting should work with the Assistant County Attorney to recover the funds from the associated bidder.	Concur	In Progress
B	We recommend Clerk's Accounting Management recover the \$9,657.50 erroneous Real Auction bidder deposit either voluntarily from the bidder or through legal means since there are no funds in the Real Auction account from which to deduct the overpayment.	Concur	In Progress
C	We recommend Clerk's Accounting Management develop and implement policies and procedures to reconcile Real Auction to Odyssey and Munis GL on a daily basis once the current reconciliation process is complete. The procedures should include instructions for researching and correcting discrepancies as well as the required supporting documentation to be generated and retained for each review.	Concur	In Progress
D	We recommend Civil Court Records Management consistently follow the newly developed daily verification procedures for Real Auction and Odyssey mortgage foreclosure transactions.	Concur	In Progress
2	<i>The Odyssey Case Management System Does Not Maintain Individual Foreclosure Bidder Accounts.</i>		
	We recommend Clerk's Accounting Management ensure the Odyssey pooled 3005 Real Auction Bidder Draw Down account is separated into individual bidder accounts once the balancing of Odyssey and Real Auction foreclosure bidder accounts is complete as recommended in Investigative Finding #1. Documentation should be retained to support the beginning balances for each of the new individual Odyssey bidder accounts.	Concur	In Progress

Background



Civil Court Records is a department under the Court and Operational Services Division of the Office of the Clerk of the Circuit Court and Comptroller. There are four major types of cases within Civil Court Records. Circuit Civil cases are those where damages sought exceed \$15,000. Common actions include mortgage foreclosures, lien foreclosures, and negligence suits. Family Division cases include actions relating to adoptions, dissolution of marriage, child custody, and domestic/repeat violence. County Civil cases involve actions such as delinquent tenant and lien foreclosure, where damages sought range from \$5000.01 to \$15,000. Small Claims damages do not exceed \$5,000. Common actions include breach of contract and replevin. Replevin refers to the provisional restoration of owner rights to seized goods.

Real Auction is an online third-party auction website that has been used by Civil Court Records since October 4, 2010 to conduct mortgage foreclosure sales. Prospective bidders must create a Real



Auction account and load a deposit of at least 5% of the successful bid. Payment for winning bids must be made by 11:00 AM the following business day. Deposits and payments can be made online by wire transfer or in person at the Clearwater Courthouse or St. Petersburg Judicial Building. All transactions affecting a mortgage foreclosure case are recorded in the Real Auction application and Odyssey, which Civil Court Records implemented as its case management system on September 17, 2012.

Clerk's Accounting is a department under the Finance Division of the Office of the Clerk of the Circuit Court and Comptroller. The Finance Division is responsible for the maintenance of

financial records, financial reporting, investing County funds, accounts payable, accounts receivable, payroll, pre-auditing of County expenditures, board records, and financial information services. The Finance Division uses the Munis financial accounting software to manage the General Ledger (GL). Munis was implemented during the fiscal year ended September 30, 2013.



Payments or deposits on mortgage foreclosure cases are posted to the pooled Odyssey 3005 Real Auction Bidder Draw Down account and then to the Munis GL 23005 account. When a bidder requests a refund from his/her Real Auction account, a Senior Court Records Specialist or Court Records Supervisor must approve the payment out of the 3005 Real Auction Bidder Draw Down account tracked in Odyssey and the Munis GL 23005 account.

On September 20, 2017, Ken Burke, Clerk of the Circuit Court and Comptroller, made a complaint to the IG. The complaint pertained to a mortgage foreclosure sale transaction and alleged the following:

- A mortgage foreclosure sale transaction was double posted.

The IG investigation of the allegation concluded the following:

- **Substantiated.** Three total erroneous Real Auction account deposits, one of which corresponded to the original allegation, resulted in inflated bidder account balances. The three erroneous deposits may not be all inclusive, as Clerk's Accounting is still in the process of balancing the remaining Real Auction bidder accounts to Odyssey.

INVESTIGATIVE FINDINGS

1. Clerk's Accounting Has Not Implemented Policies And Procedures To Reconcile The Mortgage Foreclosure Accounts.

Clerk's Accounting has not balanced the Real Auction bidder account balances to Odyssey to detect and correct outages in the mortgage foreclosure accounts. When an in-person deposit is made, the FRS completes the transaction in Odyssey, which directs the funds into the pooled 3005 Real Auction Bidder Draw Down account. Then, the FRS updates the bidder's Real Auction balance to reflect the deposit. The process differs for mortgage foreclosure payments. Specifically, the FRS applies payments made at the service counter to Odyssey and passes the transaction details to the Foreclosure/Legal section for receipt of the payment in Real Auction.

Clerk's Accounting began balancing Real Auction bidder accounts to Odyssey in September 2017. Balancing procedures preliminarily identified three instances where the same FRS incorrectly deposited money into three bidders' Real Auction accounts when the transactions should have instead been recorded as payments. These actions resulted in an inflated Real Auction balance for the three bidders. Details of the three incorrect Real Auction deposits are as follows:

Date	Amount
October 24, 2012	\$214,334.00
June 17, 2013	\$9,657.50
June 20, 2013	\$34,844.00
Total	\$258,835.50

Specific to the \$214,334 and \$34,844 transactions, Clerk's Accounting was able to reduce the two associated bidders' Real Auction account balances to correct the erroneous deposits. In the case of the \$9,657.50 transaction, the associated bidder had already liquidated the available Real Auction account balance. The Assistant County Attorney issued a demand letter to the bidder on September 26, 2017 to recover the full \$9,657.50, or establish a repayment plan, by close of business October 20, 2017, after which time the Clerk will consider all available legal remedies for funds' recovery.

Clerk's Accounting is still in the process of balancing Real Auction bidder accounts to Odyssey. This task has been divided between Clerk's Accounting and Civil Court Records. The balancing methodology entails tying Real Auction payments and deposits to the corresponding ledger. Any transactions that are validated in the Real Auction and Odyssey applications should flow into the 3005 Real Auction Bidder Draw Down account, and

transactions that do not follow this pattern would be flagged for further review. The balancing process commenced with Real Auction bidder accounts having a balance since any identified erroneous credits in those accounts could be quickly reversed; it will be extended to all bidder account activity since the inception of the Real Auction application. As of October 9, 2017, there are 4,088 Real Auction bidder accounts. Of those accounts, there are 1,104 that have a balance and 2,984 with a zero balance. All Real Auction bidder account balances as of October 9, 2017 total \$6,789,279.16. By comparison, the Odyssey balance as of October 9, 2017 is \$6,795,491.48, which exceeds the Real Auction balance by \$6,212.32.

In addition to agency efforts to balance Real Auction bidder accounts to Odyssey, the Civil Court Records section implemented the Verification of the 3005 Real Auction Drawdown Account procedure on October 3, 2017 to verify daily activity between Real Auction and Odyssey. According to Management in Civil Court Records, the daily verification is being performed by the Court Registry desk, which is completely separate from the processing staff and does not input data in the Real Auction application. The daily verification procedures entail comparing daily Real Auction bidder activity to a printout of Odyssey activity to identify discrepancies and correct them before any customer refunds are made. The procedures provide instructions for reporting discrepancies and retention of account reports.

On September 3, 2013, the IG issued a consulting review of Clerk's Accounting. Issue number four from the consulting review pertained to reconciliation of Real Auction foreclosures to Odyssey and the Munis GL. As of May 1, 2013, we determined the Real Auction balance exceeded Odyssey by \$212,414.85. In addition, the Odyssey foreclosures' balance exceeded the Munis GL foreclosures' balance by \$171,875.90. As a result, we recommended the previous Clerk's Accounting Management reconcile, research, and resolve account differences, and moving forward, formalize and implement procedures to perform periodic reconciliations between Real Auction, Odyssey, and Munis GL. Had previous Clerk's Accounting Management implemented the IG's recommendation to formalize proactive reconciliation procedures and reconcile the foreclosure balances, the discrepancies identified in September 2017 would have been identified much sooner. To date, Clerk's Accounting has not implemented procedures to reconcile total balances from Real Auction to Odyssey and Munis GL.

The lack of policies and procedures to reconcile Real Auction to Odyssey and Munis GL led to three bidders having incorrectly inflated Real Auction bidder account balances. Only one of those three bidders withdrew money from the bidder account and now owes the County \$9,657.50. However, the potential was there for an additional \$249,178 in overpayments by the County had the other two bidders withdrawn the funds. Moreover, there are potentially more bidder accounts that have inflated balances and have potentially received overpayments, which could be identified by the ongoing balancing efforts.

Real Auction bidder accounts should be reconciled to Odyssey to ensure all Real Auction transactions are accurate and correctly posted to the Odyssey 3005 Real Auction Bidder Draw Down account. This reconciliation will identify any discrepancies so they can be corrected prior to potentially filling a bidder account refund request. In addition, the Munis GL should also be reconciled to Odyssey to ensure account accuracy.

We recommend Clerk's Accounting Management:

- A. Finish the reconciliation of Real Auction bidder accounts to Odyssey. Any discrepancies should be researched and corrected. If the determination is made that a Real Auction bidder account transaction was erroneous, Civil Court Records should adjust the Real Auction bidder account balance accordingly. If a payment has been made to the bidder based on an erroneous Real Auction transaction, Clerk's Accounting should work with the Assistant County Attorney to recover the funds from the associated bidder.
- B. Recover the \$9,657.50 erroneous Real Auction bidder deposit either voluntarily from the bidder or through legal means since there are no funds in the Real Auction account from which to deduct the overpayment.
- C. Develop and implement policies and procedures to reconcile Real Auction to Odyssey and Munis GL on a daily basis once the current reconciliation process is complete. The procedures should include instructions for researching and correcting discrepancies as well as the required supporting documentation to be generated and retained for each review.

Management Response:

Management concurs with recommendations 1.A. through 1.C.

Clerk's Accounting will continue to reconcile the Real Auction bidder accounts to the Case Management System, and the Civil Court Records will make any necessary adjustments to the Real Auction bidder accounts. Reconciliation efforts on previous accounts and transactions have been prioritized. Current transactions are reconciled daily.

Regarding the recovery of the \$9,657.50 payment, the Clerk has taken appropriate action by filing a case against the payee.

Policies and procedures for reconciling the Real Auction Bidder System, the Case Management System, and the Accounting System have been drafted, and are in the process of being evaluated by Management.

We recommend Civil Court Records Management:

- D. Consistently follow the newly developed daily verification procedures for Real Auction and Odyssey mortgage foreclosure transactions.

Management Response:

Management concurs. Implementation is in progress.

2. The Odyssey Case Management System Does Not Maintain Individual Foreclosure Bidder Accounts.

The Odyssey case management system utilizes a pooled 3005 Real Auction Bidder Draw Down account to capture all mortgage foreclosure bidder activity instead of individual bidder accounts. Consequently, the third-party Real Auction bidder account is the only authoritative source for determining a bidder's foreclosure account balance.

Clerk's Accounting Management determined a change was required once it began reconciling Real Auction to Odyssey in September 2017. Therefore, Clerk's Accounting Management initiated a service ticket with Clerk's Technology on September 25, 2017 to split out bidder accounts in Odyssey. The ticket has a projected completion time of 40 hours; however, Real Auction must first be balanced to Odyssey prior to the commencement of Odyssey account changes.

Individual bidder accounts cannot be balanced from Real Auction to Odyssey. Further, as shown in Investigative Finding No. 1, the two systems are currently out of balance. Therefore, Clerk's Accounting and Civil Court Records could be relying on incorrect individual Real Auction bidder account balances. This could result in bidders using erroneous deposits to bid on property or to request a refund.

Individual bidder accounts should be utilized in Odyssey instead of a pooled account in order to facilitate more efficient balancing between Odyssey and Real Auction. Moreover, Clerk's Accounting and Civil Court Records should not be solely relying on a third-party system for bidder account balances.

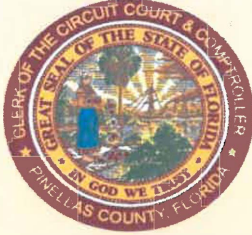
Clerk's Accounting Management stated the bidder accounts have been pooled in Odyssey since the inception of Real Auction. Clerk's Accounting did not realize the need to split out the Odyssey bidder accounts until it attempted to reconcile the pooled account to Real Auction.

We recommend Clerk's Accounting Management:

Ensure the Odyssey pooled 3005 Real Auction Bidder Draw Down account is separated into individual bidder accounts once the balancing of Odyssey and Real Auction foreclosure bidder accounts is complete as recommended in Investigative Finding No. 1. Documentation should be retained to support the beginning balances for each of the new individual Odyssey bidder accounts.

Management Response:

Management concurs. Based on a request from the Clerk's Accounting Department, the Clerk's IT Department is in the process of reviewing the technology requirements for transition to individual bidder accounts within the Case Management System.



DIVISION OF INSPECTOR GENERAL

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